

JUN 23 1975

LEGISLATIVE SECRETARY
P. O. BOX 10000, DALLAS, TEXAS 75260

PROCLAMATION

BY THE

Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

June 21, 1975

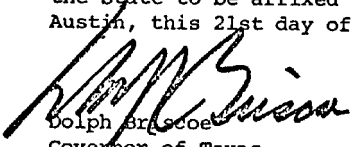
As provided under the provisions of Section 14, Article IV of the Constitution of the State of Texas, I disapprove of S. B. 980 and am filing same with the Secretary of State setting forth the following objections:

- 1) The purpose of the bill is fulfilled by a recently adopted policy of the State Board of Education which requires that parental permission be obtained both before a local school system subjects a student to the comprehensive evaluation which is a prerequisite to placement in special education programs and before placement in special education programs. Since parental consent is required, it becomes unnecessary to establish an adversary relationship between parents and the school within a legal context similar to that of a pre-trial hearing.
- 2) The bill does not specify who is financially responsible for "independent" medical, psychological, and educational evaluations which the parent may deem desirable as a basis for challenging the appropriateness of placement. The low income parent could not afford such services; therefore, "fairness" could not prevail if the school or other agency did not pay for redundant diagnosis.
- 3) It is mandated that an "impartial hearing officer" shall conduct proceedings (very similar to those found in a court of law) in which the parent may be represented by legal counsel, the right of cross examination is granted, and the provision of a complete record of the hearing is required upon the request of either the school or the parent. The bill does not specify who shall be qualified to be an impartial hearing officer; it would appear that it could not be an employee of the school district or the regional service center since school districts contract with the center for professional and media services in special education. In addition, the bill specifies that the decision of the hearing officer shall include "findings of fact, conclusions, and reasons for these findings and conclusions"; the development of such a decision would constitute a lengthy legal document similar to a major court decision. Of necessity the hearing officer would be a lawyer or someone with the services of law clerks. In any foreseeable circumstance, there will be costs associated with the provision of a hearing officer. The bill does not specify who shall have this financial responsibility.
- 4) The Commissioner of Education is made responsible for hearing appeals or designating an impartial official to conduct the proceedings. The Commissioner already spends extensive time in conducting appeals. Also, the special education staff at the Texas Education Agency consists of 26 staff members, 13 of whom are paid from federal funds to work on specific projects which leaves 13 staff members to administer a program that involves approximately 200,000 students and \$200 million.

- 5) A principle of law, long recognized as fundamental in this nation, is reversed in lines 3 through 6 on page 4. In a court of law the burden of proof rests with the person instigating litigation; the school, however, is assumed guilty until it can prove innocence.
- 6) Without any specific instructions to consider the impact of mainstreaming on the other children in the regular classroom, the bill requires mainstreaming if the handicapped child can progress satisfactorily in meeting his educational needs.

S. B. 980 was received in the Governor's Office less than ten (10) days prior to the adjournment of the regular session of the Sixty-fourth Legislature, and in accordance with the Constitution of the State of Texas, this bill, together with this Proclamation, is filed with the Secretary of State.

IN TESTIMONY WHEREOF, I
have hereunto signed my name
officially and caused the seal of
the State to be affixed hereto at
Austin, this 21st day of June, 1975.



Dolph Briscoe
Governor of Texas